

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, MISSOURI

STATE OF MISSOURI ex rel.	)	
Chris Koster,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 15JE-CC00014
	)	
TOULON HEIGHTS SUBDIVISION	)	
ASSOCIATION,	)	
	)	
Defendant.	)	

**Consent Judgment**

The State of Missouri and Defendant, Toulon Heights Subdivision Association, assent to the entry of this Consent Judgment. The parties advised the Court that they consent to its terms for settlement purposes only, and they conditioned their consent upon the Court approving the document in its entirety.

The Court has read the State's Petition for Injunctive Relief and Civil Penalties, which alleges violations of the Missouri Clean Water Law related to Defendant's wastewater treatment facility. The Court is satisfied that the provisions of this Consent Judgment are intended to resolve the issues raised by the Petition, and that the parties want to terminate this controversy by consenting to the entry of this judgment without trial. The Court retains jurisdiction over the parties and this matter in order to enforce every term of this Consent Judgment.

The parties agree to the following.

1. **Objectives.** The objectives of the parties to this Consent Judgment are to protect human health and the environment and to resolve the allegations contained in the Petition.

2. **Definitions.** The terms used below shall have the same meaning as provided in the Missouri Clean Water Law and its implementing regulations. In addition, the following terms are specifically defined:

a. “Consent Judgment” means this Consent Judgment and all attachments, which are included by reference;

b. “Defendant” means Toulon Heights Subdivision Association;

c. “Department” means the Missouri Department of Natural Resources;

d. “Plaintiff” and “State” mean the State of Missouri;

e. “Site” or “Facility” means the two cell lagoon located at SW ¼, SE ¼, SE 1/4 Section 34, Township 41 N, Range 5 E of Jefferson County, Missouri;

3. **Jurisdiction.** Defendant consents to this Court’s personal jurisdiction for purposes of executing and enforcing this Consent Judgment.

4. **Parties Bound.** The provisions of this Consent Judgment jointly and severally bind all parties to this action as well as their heirs,

successors and assigns, agents, servants and employees. Any change in ownership or corporate status of Defendant shall not alter Defendant's responsibilities under this Consent Judgment.

5. **Modification.** The parties must agree in writing and must receive approval from the Court in order to modify or amend this Consent Judgment.

6. **Costs.** Defendant shall pay all court costs in this action.

### I. Injunctive Relief

7. Defendant agrees and is ordered to comply with all State of Missouri environmental laws for any future activities in the State.

8. Defendant agrees and is ordered to maintain and continue operation of the facility for the benefit of the homeowners in the Toulon Heights Subdivision.

9. Defendant agrees and is ordered to comply with all conditions and requirements of Missouri State Operating Permit No. MO-0089729, (MSOP), effective June 1, 2016 through March 31, 2017, unless the term of the MSOP is administratively extended by the Department. The MSOP is attached as Exhibit 1 and incorporated as though fully set forth herein.

10. Defendant agrees and is ordered to file with the Department an application to renew the MSOP no later than October 2, 2016.

11. Defendant agrees and is ordered to maintain the MSOP and fully comply with all of its terms and conditions until the MSOP is either transferred or terminated with the approval of the Department.

## II. Civil Penalties

12. Defendant consents to the entry of judgment in favor of the State of Missouri for a civil penalty of \$4,320.00. Defendant hereby authorizes, and the Court hereby orders, entry of this civil penalty against Defendant and in favor of the State of Missouri.

13. The parties agree and the Court hereby orders that the \$4,320.00 civil penalty shall be suspended upon the condition that Defendant complies with this Consent Judgment and the Missouri Clean Water Law and its implementing regulations for a period of one year from the entry of this Consent Judgment. Defendant shall pay the suspended penalty as ordered by the Court upon motion filed by Plaintiff. If the Court orders payment, Defendant shall submit it by check made payable to the “*State of Missouri (Jefferson County)*” along with a copy of this consent judgment, to: **Collections Specialist, Missouri Attorney General’s Office, P.O. Box 899, Jefferson City, MO 65102-0899**. The suspended penalty provided in this Consent Judgment shall be in addition to any other rights, remedies, or sanction available to the State for Defendant’s’ violation of this Consent Judgment or applicable law.

### **III. Satisfaction and Reservation of Rights**

14. Upon the completion of all terms of this Consent Judgment, including the payment of the suspended civil penalty as ordered by the Court, Defendant shall be relieved of liability for the violations alleged in the Petition.

15. This Consent Judgment shall not be construed to limit the rights of the State to obtain penalties or injunctive relief under the Missouri Clean Water Law, or its implementing regulations, or under other federal or state laws or regulations, except as expressly stated in the preceding.

16. The State expressly reserves the right to pursue criminal charges and natural resource damages claims unless those claims are resolved by the provisions of this Consent Judgment.

17. Without limiting the foregoing, the parties expressly agree that nothing in this Consent Judgment shall:

- a. Prevent the State from applying to this Court for further orders or relief if violations of this Consent Judgment occur;
- b. Preclude the State from seeking equitable or legal relief for violations of any laws or regulations not alleged in the Petition;
- c. Preclude the State from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or its implementing regulations.

18. The State further reserves all legal and equitable remedies to address any imminent and substantial danger to the public health or welfare or the environment arising at, or posed by, Defendant's Facility or Site, acts, or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

#### **IV. Notice and Delivery**

19. Whenever under the terms of this Consent Judgment notice must be given or a report or other document must be forwarded by one party to another, it shall be directed to the entities at the addresses specified below.


20. All notices must be in writing and either hand-delivered or sent by registered or certified mail, postage prepaid.

<b>To the Department:</b>	<b>To the State:</b>
Missouri Department of Natural Resources [Name of applicable] Program P.O. Box 176 Jefferson City, MO 65102 Phone: (573) 526-XXXX Fax: (573) 526-5268	Missouri Attorney General's Office Agriculture & Environment Division P.O. Box 899 Jefferson City, MO 65102 Phone: (573) 751-8370 Fax: (573) 751-8796
<b>To Defendant:</b>	
Toulon Heights Subdivision Association c/o Thomas Frasca Registered Agent 2900 Old State Road A Festus, MO 63028	

21. Either party may update the delivery address by giving written notice of the new address to the other parties at the addresses above or to the most recent address provided in accordance with this paragraph.

The parties hereby consent to this Consent Judgment through their duly authorized representatives as indicated below.

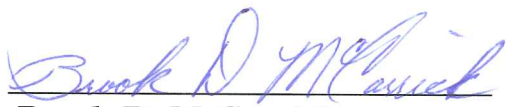
TOULON HEIGHTS SUBDIVISION ASSOCIATION

  
Name

Title: Current Registered Agent

Date: 06/19/2016

MISSOURI ATTORNEY GENERAL'S OFFICE

By:   
Brook D. McCarrick  
Assistant Attorney General

Date: 8/22/16

MISSOURI DEPARTMENT OF NATURAL RESOURCES

Name: John Madias

Title: Director, Water Protection Program

Date: 9/2/16

SO ORDERED.

A handwritten signature in blue ink, appearing to read "De Min", is positioned above a horizontal line.

Circuit Judge

Date: 9/6/16